



DEPARTMENT OF PLANNING AND BUILDING

DATE: January 29, 2014

TO: Subdivision Review Board

FROM: Stephanie Fuhs, Current Planning Division

SUBJECT: Degroot Parcel Map SUB2012-00044 (CO13-0002) – Agenda Item #2

Since preparation of the staff report for this project, staff has had several discussions with the applicant and concerned neighbors regarding issues surrounding this project. Based on these conversations, staff is providing additional background information and suggested modifications to the conditions of approval.

Neighbor concerns include:

- The zoning of the property as Industrial;
- Uses allowed under the Minor Use Permit D980214P;
- Noise from businesses that are allowed under the conditions of the above Minor Use Permit;
- Landscape screening that was conditioned for, but never substantially planted or maintained;
- Water to maintain the necessary landscaping;
- Conditions from Parcel Map CO88-0292 to lower the hill on Winterhaven Way north of the subject property;
- The precedent setting nature of allowing 6 new owners in one building on this parcel and the impact of allowing similar projects on the other vacant parcels;
- How the common areas and landscaping will be maintained with 6 individual owners versus just one;
- Traffic concern on Highway 1 next to the fire station;
- Who will enforce conditions, how to keep landscaping going;
- Hours of operation for the businesses to avoid noise in the nighttime hours; and
- Overall distrust of the process and promises made regarding density, uses allowed, and no maintenance or enforcement of conditions from the previous land use decisions.

Applicant concerns include:

- Obtaining a final will-serve letter from the water company;
- Who is responsible for the landscaping, fencing and maintenance of these improvements;
- Costs being assessed by the water company;
- Recorded Water Well and Landscape Maintenance Agreement versus conditions of approval for Minor Use Permit D980214P;

Staff Comments

As was stated in the original staff report, the Land Use Element was adopted in 1980 and since then, the property has been zoned Industrial. The County's review of this project does not include any provision for changing the zoning. The site is zoned Industrial, and the existing building was built legally under the adopted zoning category. The allowed uses are appropriate in the Industrial zone.

When Parcel Map CO88-0292 (for the 10 acre parcel on Winterhaven Way that subdivided the property into 4-one acre parcels with a 6-acre remainder lot) was approved, there was a condition placed on the project to "improve sight distance at Winterhaven/Autumn Place to 30 mph" and "landscape screening and/or visual buffer areas may be required to address visual impacts." According to the Board of Supervisors' resolution approving the project, the sight distance condition (#3) was removed. Staff did not see a nexus between the current project and lowering a hill that is off-site and under an existing paved road (Winterhaven Way). Minor Use Permit D980214P which allowed construction of the 18,000 square foot building that is the subject of the current application was approved in 2000. The conditions of approval (attached to the original staff report) limited uses and provided conditions for future development on the other parcels in the subdivision, as for mitigation of traffic, noise and installation and maintenance of landscaping. Landscape screening was supposed to be provided at the time of building permit final for the building. Landscaping has been installed on numerous occasions, but not maintained and has not provided the screening needed to provide a buffer between the industrial and residential uses. That problem is addressed by the requirements of the current approval.

The project was referred to CalTrans and Public Works for comments. Staff did not include any conditions for traffic on Highway 1 because we rely on the referral agencies to recommend improvements where they see a potential concern or issue that needs to be addressed.

The CC&Rs condition (#8) for the Parcel Map contains a provision for maintenance of the common area.

The current project is a discretionary permit that follows a series of land use approvals that have not been maintained in complete accordance with the conditions of approval. While there is a recorded agreement in place (attached) that contains provisions for initial landscaping and maintenance (Item 15, Page 3 of the agreement), this agreement is between two private parties, and based on staff's review of the conditions of approval for the Parcel Map and Minor Use Permit, was not a requirement of either land use decision. The conditions of approval for Minor Use Permit D980214P contained conditions of approval requiring fencing and landscaping to be installed. Responsibility for compliance with the conditions falls on the owner of this parcel because conditions from previous land use decisions run with the land.

With regard to a will serve letter, before a map records, the Environmental Health Department requires that a final will serve letter be submitted in order to guarantee that water service will be available to serve the proposal. This is a standard requirement of every subdivision that the County approves.

As stated above, based on conditions of approval for D980214P , the owner of Lot 1 is responsible for providing fencing and landscaping. Current conditions require that the applicant also be responsible for maintaining that landscaping. The County does not have any authority to require that a water company install and maintain landscaping.

The current applicant has requested that the existing building be converted into six units for individual ownership which increases the overall density of the parcel. This is allowable under our Land Use Ordinance; however, compatibility with neighboring residential uses needs to be considered as well. Therefore, staff is recommending that the allowable uses be further limited in order to reduce the noise generating activities that could occur on the property to be more conducive with the surrounding residential properties along with a limitation on hours of operation to the hours of 7 a.m. and 8 p.m.